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JENNER & BLOCK

October 4, 2004

Jenner & Block LLP
601 Thirteenth Street, NW
Suite 1200 South
Washington, DC 20005
Tel 202-639-6000
www.jenner.com

Chicago
Dallas
Washington, DC

Mark D. Schneider
Tel 202 639-6005
Fax 202 661-4945
mschneider@jenner.com

VIA HAND DELIVERY

RECEIVED

OCT - 4 2004

Federal Communications Commission
Office of Secretary

Ms. Marlene Dortch, Secretary
Federal Communications Commission
236 Massachusetts Avenue, N.E.
Suite 110
Washington DC 20002

REDACTED – FOR PUBLIC INSPECTION

Re: Unbundled Access to Network Elements,
WC Docket No. 04-313, CC Docket No. 01-338

Dear Ms. Dortch:

This letter provides notice for the public record that undersigned counsel to MCI filed the attached Declaration of Linda Mills, which contains Confidential Information, under seal and subject to the Protective Order, DA 04-2603, as subsequently modified by DA 04-3152, in the above-referenced proceeding.

The unredacted, confidential version of this filing is being hand delivered to you, as well as to Janice Myles, Competition Policy Division, Wireline Competition Bureau, as required by the Protective Order. The confidential version will be made available for inspection pursuant to the terms of the Protective Order. Arrangements may be made by contacting A. Renée Callahan at 202-777-7700.

Two copies of the filing, as redacted, are submitted herewith pursuant to the Protective Order. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

Mark D. Schneider
Counsel for MCI

cc: Gary Remondino
Janice Myles

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Unbundled Access to Network Elements	)	WC Docket No. 04-313
	)	
Review of the Section 251 Unbundling	)	
Obligations of Incumbent Local Exchange	)	CC Docket No. 01-338
Carriers	)	

DECLARATION OF LINDA MILLS
On Behalf of MCI, Inc.

1. My name is Linda Mills. I am currently the Product Management Vice President responsible for Voice Applications at MCI. The Voice Applications product suite includes Local Services, Conferencing, Contact Center Enhanced Call Routing and Web Center Services, and MCI's Voice over IP product suite. My business address is 22001 Loudoun County Parkway, Ashburn, Virginia, 20147.
2. I have been in the communications industry for 18 years, and have held Network Design, Pricing, Sales, and Marketing roles with Sprint, TCG/ATT, XO Communications, and now MCI. My experience in telecommunications spans local, long distance, data, IP, and integrated services. I was with Sprint from 1986-1995. I then worked with TCG from 1995-1999, which included one year with AT&T following AT&T's acquisition of TCG. I was with XO Communications as the leader of Product Management from 1999 to January, 2004, and subsequently joined MCI in late January of 2004.

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3. The purpose of this declaration is to describe MCI's local network facilities and discuss MCI's reliance on incumbent LEC special access to provide competitive services. As I discuss below, MCI's reliance on incumbent LEC special access constrains the geographic areas and customers that it can serve.

I. MCI's Local Network Facilities

4. It has long been MCI's objective to serve its customers over its own facilities to the maximum extent possible. To that end, MCI has made multibillion dollar investments in local fiber networks over the past decade. In fact, MCI is one of the largest facilities-based competitive local exchange carriers in the nation.

5. Nevertheless, MCI's network reaches far fewer buildings than do the incumbent LECs' networks. MCI's network reaches only about **[redacted]** buildings, whereas the incumbent LECs' networks reach virtually every building in the United States. Moreover, many of the "buildings" included in MCI's tally are carrier locations, such as carrier hotels, incumbent LEC central offices, IXC POPs, and ISP POPs, not office buildings or other conventional end user locations.

6. Because MCI's local network reaches a relatively small number of buildings, MCI continues to rely on incumbent LEC facilities – generally provided pursuant to the incumbent LEC's special access tariff – to reach the vast majority of MCI's high-capacity customer locations. In order to provide service to these "off-net" customer locations, MCI purchases, at a minimum, a DS-1 or DS-3 "channel termination" from the incumbent LEC's special access tariff.

7. In many cases, MCI must purchase both a channel termination and DS-1 or DS-3 interoffice transport from the incumbent LEC's special access tariff in order to reach the customer's location. Although MCI has, in many cities, constructed fiber rings that extend MCI's network to incumbent LEC end offices, MCI's network reaches only **[redacted]** incumbent LEC central offices nationwide.

8. The incumbent LEC central offices that are on MCI's local fiber networks account for only a small percentage of the central offices where MCI requires high-capacity interoffice transport. Whereas MCI's local network reaches **[redacted]** incumbent LEC central offices, MCI purchases incumbent LEC special access interoffice transport to several *thousand* incumbent LEC central offices. Because there are so many incumbent LEC central offices that MCI can reach only using incumbent LEC special access transport, and because, as I discuss below, the incumbent LECs' interoffice mileage charges are exceedingly high, MCI's spending on incumbent LEC interoffice transport is substantial: in 2003, MCI paid the incumbent LECs over $**[redacted]** million for special access interoffice transport.

II. MCI's Use of Special Access

9. Prior to the passage of the 1996 Act, MCI used special access primarily to connect business customers to its network for the provision of interLATA voice and data services. MCI also used special access – albeit on a much smaller scale – to "fill out" its network when providing special access services in competition

with the incumbent LEC. By interconnecting with incumbent LEC special access services through collocation at incumbent LEC end offices, MCI could offer competitive special access services at locations not served by MCI's own network facilities.

10. Although the 1996 Act promised to allow MCI and other telecommunications carriers to "fill out" their networks using unbundled loops and transport, rather than incumbent LEC special access, MCI continues – for reasons discussed in more detail below – to use incumbent LEC special access. MCI has not only continued to use incumbent LEC special access services to provide those services that it offered prior to the 1996 Act -- interLATA services and competitive special access services – but it has also used incumbent LEC special access to enter new markets such as the business local exchange market.

11. In part, MCI continued to use unbundled high-capacity loops and transport, even after the 1996 Act was passed, because the FCC adopted use restrictions that prohibited MCI from using loop-transport combinations, i.e., "EELs," to provide services to customers that did not obtain a significant amount of local exchange service. Moreover, because the particular use restrictions adopted in 1999 were unworkable, MCI was unable to use EELs even for local exchange services. Although the 1999 use restrictions were replaced by marginally more workable use restrictions in 2003, the incumbent LECs have stymied implementation of the new rules.

12. Furthermore, even in those instances where the FCC's use restrictions did not prohibit access to unbundled elements, it was MCI's experience that the incumbent LECs used a variety of tactics to limit MCI's ability to order unbundled loops and transport. For example, incumbent LECs responded to MCI's orders by claiming that the incumbent LEC was not obligated – because of alleged interconnection agreement or tariff restrictions – to provision the requested elements or convert circuits from special access to unbundled elements. Even though those claims were without merit, the unpredictable ordering process made it difficult for MCI to use unbundled loops and transport to deliver the quality of service expected by enterprise customers.

13. After the FCC adopted the *Triennial Review Order* in 2003, MCI began reevaluating whether to make greater use of unbundled loops and transport. The *Triennial Review Order* addressed some of the tactics that the incumbent LECs had previously used in their attempts to deny access to unbundled loops and transport, such as the "no facilities" argument. And, although the *Triennial Review Order* retained service eligibility criteria for EELs, MCI's initial evaluations indicated that the revised use restriction could be more workable than the original use restriction. However, MCI is locked into long-term pricing plans with each of the RBOCs for special access, and the termination liabilities associated with those plans would limit the amount of high-capacity traffic that MCI could migrate from special access to unbundled elements.

14. Further, *any* use restrictions, including the new use restrictions adopted by the FCC in 2003, add significant complexity and cost to provisioning and maintenance systems for carriers – like MCI – that offer a broad portfolio of products. The carrier's provisioning and maintenance systems and personnel must juggle two separate processes – a UNE-based process to support the services and network configurations permitted by the use restrictions and a separate, special access-based, process to support the services and network configurations prohibited by the use restrictions.

III. Impact of the Use of Special Access on MCI's Competitive Position

15. The incumbent LEC special access circuits that connect MCI's fiber network, packet switches, and circuit switches to the vast majority of MCI customer locations are a key component of MCI service offerings. Those incumbent LEC circuits not only provide essential links to MCI's customer locations, but account for a significant portion of MCI's cost of providing service.

16. The fundamental problem with MCI's current reliance on incumbent LEC special access is that the price that MCI must pay for a special access circuit is extremely high – much higher than the price that MCI would pay for the same circuit if it could be obtained as unbundled elements. Although MCI has entered the local exchange and exchange access markets using incumbent LEC special access, the high cost of special access limits MCI to certain segments of those markets. MCI can offer a price that is competitive with that of the incumbent LEC only by

constraining its service offerings to limited geographic areas and to a limited subset of customers.

17. One key limitation is geographic: because MCI relies on special access, MCI can offer a price that is competitive with that of the incumbent LEC only to customers within a limited geographic scope. That geographic limitation is the result of the incumbent LECs' highly distance-sensitive price structure for special access. The per-mile price of special access interoffice transport is very high – much higher than the per-mile price of unbundled transport. Whereas, for example, the mileage charge for unbundled DS-1 transport is typically less than $1.00 per mile, the mileage charge for special access DS-1 interoffice transport is usually over *1000 percent* higher – over $10 per mile. Even if it is profitable to use special access to serve a customer located close to MCI's local network facilities, the high per-mile price of incumbent LEC special access quickly eliminates profit margins as the distance from MCI's network facilities to the customer location increases, i.e., as the length of the special access circuit increases..

18. In the business local exchange market, MCI offers service only within a limited footprint that is drawn to limit the average mileage (and, therefore, the average cost) of the special access circuits that MCI must obtain from the incumbent LECs.

19. Access to unbundled loop and transport combinations, absent the regulatory and incumbent LEC-imposed hurdles that MCI has faced in the past, would permit

MCI to expand significantly the footprint in which it offers business local exchange service.

20. Similarly, in the special access market, MCI has found that it can offer a price that is competitive with that of the incumbent LEC only if the customer's locations are on or close to existing MCI network facilities. When MCI receives a Request for Proposals (RFP) for special access or intraLATA private line services, MCI analyzes the customer's locations and determines whether the customer's locations are on-net or off-net and, if the locations are off-net, the special access costs that MCI would have to pay to the incumbent LEC in order to serve those locations. MCI's special access costs vary significantly by RFP, depending on the relative locations of customer sites and MCI's network facilities. If the customer's locations are clustered relatively close to MCI's network facilities, MCI can generally offer a competitive bid. If, on the other hand, a significant fraction of the customer's sites are located further from MCI's network, high special access mileage costs generally render MCI's bid noncompetitive.

21. MCI's reliance on special access also limits the types of customers for which MCI can offer a price that is competitive with that of the incumbent LEC. For example, MCI requires local exchange customers served over DS-1 facilities to purchase at least 12 lines of service. By imposing this minimum line count, MCI can spread the high cost of special access across more lines and thus reduce its per-line cost disadvantage sufficiently to offer a price that is competitive with the incumbent LEC's per-line price. If unbundled loops and transport were readily available,

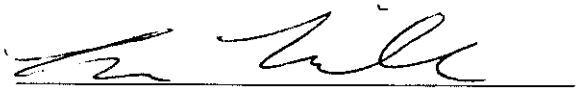
MCI could reduce the minimum line count and thus compete for a wider universe of customers.

22. These examples show that the high cost of special access already imposes significant limitations on MCI's ability to compete successfully in the local exchange and special access markets. Of equal or greater concern is MCI's ability to remain competitive in the future, not only in the local exchange and special access markets but in the interLATA voice and data markets as well. There is a significant risk that the incumbent LECs could respond to competition by (1) making retail price reductions that reduce or eliminate any profit margin for a carrier, like MCI, relies on high-priced incumbent LEC special access to serve its customers; or (2) increasing the price of special access still further, similarly reducing or eliminating any profit margin for carriers dependent on incumbent LEC special access.

23. MCI and other special access customers have already experienced several recent instances in which the incumbent LECs increased their special access rates. For example, in August, 2004, Qwest increased its DS-1 special access rates by about 20 percent and its DS-3 rates by over 40 percent in the MSAs where it has obtained "Phase II" pricing flexibility. In fact, Qwest increased its DS3 mileage rates by over *100 percent.* Increases of that magnitude shrink the universe of customers that MCI can profitably serve, especially in the local exchange and special access markets.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 9/30/04, 2004.



Linda Mills